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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,569	06/12/2006	Pawel Musial	US040023	1636

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EXAMINER	
CHAKOUR, ISSAM	
ART UNIT	PAPER NUMBER
4163	
MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/582,569	MUSIAL, PAWEL	
	Examiner	Art Unit	
	ISSAM CHAKOUR	4163	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *12 June 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *06/12/2006*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The title is objected to because of the following informalities:

"divices" is misspelled, appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1, 2, 9, 10, 11, 18, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (US 6,580,914) in view of Meade (US 2003/0073412 A1).

Regarding claims 1, 10, and 19 Smith teaches a method for providing user data pertaining to a user of a mobile terminal to a recommender system (e.g. remote resource server, See column 2, lines 1-8), the method comprising the steps of: determining, by the terminal, a current location of the terminal (See Column 3, lines 24-25); saving, in the terminal, an identifier (See claim 2 and 3) of the determined location; and informing, by means of the terminal, said recommender system of the determined location (See Column 3, lines 23-30).
(Note: determining the location data and prompting their transmission requires storing them and attributing them to an identifier that identifies the data to its respective region, since the transfer of location information between the base-stations and the remote resource server is done via the hand held device, when the hand held device as described by Smith forwards the location information, before doing so it has to store it before sending it)
However, Smith does not teach the recommender being a consumer device. Meade teaches the mobile being used to apply and update user preferences in appliances and consumer devices such as DVR, PVR, or TIVO (See column 8, lines 51-54).
As disclosed by Smith, the terminal determines its location and transmits it to a remote recommender (recommending selected news, information, or services) so that the recommender initiates the selection and advertising relevant to the user based on

his/her location. In another word the recommender filters out news or information that is not relevant to the location of the user. By the same token, TIVO is a recommending system known by its dynamic selection and filtering of programs that are not relevant nor particularly of interest to the user. The claimed invention would have been obvious because a person of ordinary skill in the art at the time of the invention would have had a good reason to pursue the method as taught by Smith to other recommender devices or derivative method/system (e.g. TIVO...) as it would yield a predictable result. Furthermore, a person of ordinary skill would have been motivated to synchronize data between the terminal and the recommender by means of Bluetooth or IR interface as disclosed by Meade because connecting two consumer devices via infra-red, Wi-Fi, or Bluetooth interface for communication of data is a technique within the skills of one of ordinary skill in the art, and thus it would have led to an anticipated success.

4. Regarding claims 9 and 18, Smith in view of Meade teaches the limitation in accordance with claim 1; Smith further teaches the method wherein the determining, saving steps are initiated automatically (See column 5, lines 29-30) by the terminal without the intervention by the user other than moving the terminal to a different location. However, Smith does not teach that the informing step is automatically initiated, but by means of a request by user. Meade on the other hand teaches the informing step is initiated automatically between the mobile device and a recommender (See column 10, lines 34-42). Note that making a process automatic as opposed to prompt input and manual initialization is recognized as part of the ordinary capabilities

of one skilled in the art. It would have been obvious to one of ordinary skill at the time of the invention to add this feature because of the convenience it offers the user.

5. Regarding claims 2 and 11, Smith in view of Meade teaches the method in accordance with claim 1, he further teaches the method wherein said terminal has an input device, said determining being triggered by said user actuating said input device (e.g. a request or manual input…) (See claim 5).

6. Claims 3-8 and 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Meade as applied to claim 1 above, and further in view of O'Neil (US 2002/0107027)

Regarding claims 3 and 12, Smith in view of Meade teaches the method in accordance with claim 1. Smith in view of Meade does not teach the method wherein the terminal includes a timer, said determining step comprises the steps of: detecting, by said terminal, a signal from a mobile terminal network; recognizing, from the signal, whether said determined location is outside a predefined home territory of the user; and if it is recognized that the terminal is outside the home territory, automatically and without intervention by the user other than moving the terminal to a different location, starting a first predetermined time period as measured by means of said timer.

O' Neil on the other hand teaches the method wherein the terminal includes a timer (See [0039], lines 22-23. Note that timer is indispensable in application where counting the duration, delaying, or measuring time is required), said determining step comprises

the steps of: detecting, by said terminal, a signal from a mobile terminal network; recognizing, from the signal, whether said determined location is outside a predefined home territory of the user; and if it is recognized that the terminal is outside the home territory (inherent in roaming cellular phones), automatically and without intervention by the user other than moving the terminal to a different location, starting a first predetermined time period as measured by means of said timer (See claim 2, 3, and paragraph 22-23-).

It would have been obvious to one of ordinary skill in the art at the time of the invention to implement the system with an automatic start of timer to record the presence of the user at a location other than his/her home location, because in Smith's invention, the location determines what type of information is to be presented to the user, but only if the user stays at that location for a given time would the system validate that the user is effectively is at a location different from his/her home location, otherwise the user is passing by, roaming, or not staying there for long, which may not necessarily be of interest to the user.

7. Regarding claim 4 and 13, Smith in view of Meade and O'Neil teach the method according to claim 3 and 12 respectively. O'Neil further teaches that the current location determined in the determining step changes in correspondence with movement of the terminal, said current location comprising at any moment a region and a sub-region within the region (See abstract), the region and sub-region (an example of the region is particular shopping mall, wherein the sub-regions are local stores within that mall, see [0028], line 7) being discernible by the terminal from the signal, the starting step further

comprising the step of monitoring said signal to determine whether at least one of the region and the sub-region stays constant over said first predetermined time period (See [0042], lines 4-6).

It would have been obvious to use O'Neil timing scheme because one of ordinary skill in the art at the time of the invention would have had a good reason to pursue the idea of timing the location of the user in a particular region as it would have been within his/her technical grasp. In another word, after determining the location of the user, before recommending any advertising or considering the location as one of interest to the user, there must be a time interval to test if the user is effectively in an area long enough and he/she is not just passing by or roaming the area shortly.

8. Regarding claims 5, 8 and 14, 17 Smith in view of Meade in further view of O'Neil teach the method in accordance with claim 4. Smith in view of Meade and O'Neil teaches the method wherein the monitoring step comprises the steps of: monitoring said signal to determine whether the region stays constant over said first predetermined time period as mentioned above. Smith in view of Meade and O'Neil does not teach the step further comprising monitoring said signal to determine whether the sub-region stays constant over a second predetermined time period. However, it would have been obvious to one of ordinary skill in the art at the time of invention to monitor the location of the user in an area that is smaller than the previous one for another predetermined period of time, because part of the recommender's function is to narrow down or further filter the advertising and commercial information to those relevant to the user interest

based on the reported location. It would have been obvious to further test if the user for example is still at a certain location in the shopping center or have moved to another gallery where there are no stores but rather a food court or parking garage. Further the monitoring is obvious to have encompassed testing if the user is at particular gallery or just passing by after shortly checking merchandise, if the user is there for shorter time than the predetermined time, then the recommender would not transmit the relevant commercial information of said gallery. Similarly, before storing its location as one of interest, the mobile would continuously monitor its location over another predetermined period of time to see if the user is at that location or have moved on. Therefore, it would have been obvious to one of ordinary skill in the art to pursue these steps which would have yielded the predictable results as set forth above.

9. As to claims 6 and 15, Smith in view of Meade and O'Neil teaches the method as discussed above in accordance with claim 5, Smith further teaches the saving step further comprises the step of saving the region as an identifier (See claim 2 and 3) and the informing step comprises the step of informing the recommender system of said region (See claim 6). Smith in view of Meade and O'Neil teaches testing the region to determine if has stayed constant over a period of time as mentioned above. However Smith in view of Meade and O'Neil does not explicitly teach that when the condition is satisfied saving the region or location information as an identifier. Although Smith in view of Meade and O' Neil does not explicitly teach the condition that if it is determined that the region has stayed constant over said first predetermined time period, testing for

this condition would have been obvious because the purpose of including a monitoring step is to monitor the events by testing whether the timer reached a predetermined amount of time in the same region, if it does without any change of the location of the user, then this region might be of an interest to the user, and saving it for later transfer of this location information to the recommender for updating the preferences.

10. With regards to claims 7 and 16, Smith in view of Meade and O'Neil teach the method as discussed above in accordance with claims 6 and 15, Smith does not teach the method wherein, if it is determined that both the region and the sub-region have stayed constant over the first and second predetermined time periods respectively, the saving step further comprises the step of saving the sub-region as an identifier and the informing step comprises the step of informing the recommender system of said sub-region. However, as mentioned above, the monitoring function not only tests if the user has changed location in a region in a given time, it also has to test for change of location in a much narrower area (sub-region) if the first region is much larger (correspondingly contains broader array of news, advertising or commercial information, See Colum 4, lines 19-30 in Smith), it would then have been obvious to one of ordinary skill in the art at the time of the invention, to store the location of the sub-region as an identifier because it will allow Smith to further narrow down by means of the recommender the selection or recommendation of information of particular stores, news, or weather info (as in Smith, column 4, lines 11-17 and 18-30) in that particular region whose identifier has been transmitted to the recommender.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ISSAM CHAKOUR whose telephone number is (571)270-5889. The examiner can normally be reached on Monday-Thursday (7:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Robinson can be reached on 5712722319. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

IC

/Mark A. Robinson/
Supervisory Patent Examiner, Art Unit 4163